

The Impact on Local Communities of the Release of Unaccompanied Alien Minors  
and the Need for Consultation and Notification  
U.S. House Judiciary Committee  
Subcommittee on Immigration and Border Security  
December 10, 2014

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Thank you, Chairman Goodlatte and Ranking Member Lofgren, for the opportunity to testify on the problems created by the resettlement of illegal alien juveniles (also known as Unaccompanied Alien Children, or UACs). The Obama administration's decision to allow virtually all of these new illegal arrivals to live here indefinitely – and their family members too in most cases -- instead of returning the majority of them promptly to their home countries, has imposed a significant fiscal and logistical burden on many American communities. We are all sympathetic to the hardships and challenges that many of these young people have had to endure. But the federal government also should be required to acknowledge and weigh the impact of its decision to release them on the localities where they are settling. Communities that have had to absorb even relatively small numbers of UACs have incurred significant new and unforeseen expenses for schooling, health care and other support. The bills we are discussing today would give state and local governments a voice in one important part of the resettlement decision-making process.

**The Number of Resettled UACs Has Grown Significantly.** The need for coordination with host communities is critical in light of the explosion in the number of UACs taken into custody at the southwest border in recent years. The Obama administration's controversial interpretation of its statutory obligations in processing these children has helped fuel the increase in illegal crossings and resulted in a larger number being turned over to the Office of Refugee Resettlement (ORR) for processing and release than is necessarily warranted under the law.<sup>1</sup>

In the first 11 months of FY2014, the Border Patrol took into custody 66,127 UACs. This was an increase of 88 percent over the same time period in 2013 (when 35,209 were apprehended), and more than four times the number in all of FY2011 (16,067).<sup>2</sup> Of those apprehended in 2014, 50,303 were from El Salvador, Guatemala and Honduras. Because they are citizens of a non-contiguous country, under Obama administration policy, most of the Central American juveniles apprehended were turned over to the ORR for release to family members or other sponsors.

In FY2014, ORR released 53,518 UACs to the custody of sponsors. In the first month of FY2015, ORR released another 1,712 to sponsors.<sup>3</sup>

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<sup>1</sup> Jon D. Feere, "2008 Trafficking Law Largely Inapplicable to Current Border Crisis," Center for Immigration Studies, July, 2014: <http://cis.org/2008-trafficking-law-inapplicable-current-border-crisis>.

<sup>2</sup> See <http://www.cbp.gov/sites/default/files/documents/SWB%20Family%20and%20UAC%20Apps%20thru%208-31.pdf>.

<sup>3</sup> See <http://www.acf.hhs.gov/programs/orr/programs/ucs/state-by-state-uc-placed-sponsors>.

Most of the releases have occurred in 163 counties in 35 different states. But they are not spread out; they are concentrated in parts of the country that already have established populations of Central Americans. For example, the largest number was released in Harris County, Texas (which includes Houston); Los Angeles County; suburban Washington, DC; Long Island, NY; and Miami-Dade County.

In other metropolitan areas, the releases are usually concentrated in certain towns or neighborhoods, which results in disproportionate impacts in those localities, especially on top of the equally large number of families who arrived illegally over the same time span, and on top of legal immigrant and refugee flows. For example, there were 85 UACs released this year in the entire Worcester County, Massachusetts, but about one-third of them are settled in the town of Milford, which has less than 30,000 residents. Similarly, 311 UACs were released in all of Essex County, Mass., and approximately 250 of them settled in the city of Lynn. As with other migration streams, the new arrivals often cluster with friends and family who hail from the same parts in their home countries.

**Most UACs Are Not Trafficking Victims, But Joining Family Members.** According to intelligence reports prepared by Immigration and Customs Enforcement (ICE), most of the UACs are released to family members who are already living in the United States: “97.9 percent of OTM UC’s [Other Than Mexican Unaccompanied Children] were discharged into the custody of an immediate family member (parent or sibling),” most frequently the mother or father.<sup>4</sup> Thus they are not truly “unaccompanied” under the terms of the law, which defines “unaccompanied” as a person who “has no lawful immigration status in the United States” and “has not attained 18 years of age” and does not have “a parent or legal guardian in the United States.”<sup>5</sup>

Most have been smuggled into the United States in arrangements made by their family members, according to the ICE intelligence report referenced above and other accounts that have appeared in the news media. There are few instances of involuntary trafficking victims in this population, although all UACs are screened for the possibility.

According to a Border Patrol intelligence report based on interviews with the UACs, nearly all of the migrants (95%) stated that their “main reason” for coming to the United States illegally was because they had heard that they would receive a “permiso,” or permission to stay.<sup>6</sup> They also cite push factors such as lack of opportunity and violence in their home countries and pull factors such as joining family and friends here, and the high probability of success in remaining. These explanations have been widely confirmed in numerous news media accounts featuring interviews with recent illegal arrivals.

**Few UACs are Sent Home.** Despite claims by top Obama administration officials to the contrary,<sup>7</sup> the vast majority of UACs are allowed to stay in the United States indefinitely. From the ICE intelligence

<sup>4</sup> See <http://www.scribd.com/doc/232909314/Darby-Leaked-ICE-Doc>.

<sup>5</sup> 8 U.S.C. §1232 is the statute in which the “William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008” is located. The statute cites to the definition of “unaccompanied alien child” at §1232(g), and refers to 6 U.S.C. §279(g)(2).

<sup>6</sup> Stephen Dinan, “Surge in illegal immigrants blamed on U.S. policy, not on spiking violence in Central America,” *Washington Times*, <http://www.washingtontimes.com/news/2014/jun/11/surge-illegals-blamed-us-policy/?page=1>.

<sup>7</sup> Said DHS Deputy Director Alejandro Mayorkas in a conference call with the media on June 20, 2014: “When an individual’s case is fully heard, and it is found that the individual does not qualify for asylum, he or she will be immediately

report: “most (98 percent) OTM UCs are issued a Notice to Appear and [are] not immediately removed from the United States.”

According to data from the immigration courts (Executive Office of Immigration Review), over a three-month period at the end of FY2014, there were 11,392 initial hearings scheduled for UACs (known as master calendar hearings). During that time period, 1,804 were completed (16%); the rest were continued.<sup>8</sup>

In FY2014, ICE deported only 1,901 UACs, even as the agency booked another 56,000 onto its docket over the course of the year.<sup>9</sup> From the EOIR data cited above, we can tell that only a portion of the 1,901 UACs who were deported had been apprehended in FY2014. EOIR reported that in the three-month period, the courts issued 1,542 orders of removal to UACs – but 1,449 (80%) were issued in absentia, so ICE will not enforce the order. There were apparently 93 orders of removal to UACs who did appear in person and 47 grants of voluntary departure. Assuming that none of these UACs absconded after the court order, that would mean that ICE was on track to deport only about 500-600 of the UACs who arrived in the 2014 border surge; the rest were older juvenile cases.

According to ICE, a huge share -- 87 percent -- of UAC cases filed in immigration court from 2009 to 2014 were still pending as of late June, 2014.<sup>10</sup> ICE enforcement operations director Tom Homan testified to this committee that it can take up to five years from the date the government files a Notice to Appear in court to the removal hearing date.

In light of these figures, there can be no question that the newly arrived UACs (and their family members, who often are here illegally also) will not be brief sojourners in the communities where they have settled. Realistically, these communities need to devote public resources to help support them for the indefinite future.

**Education is the Most Significant Cost.** By August and September of this year, many local school districts around the country had to scramble to make room for this unprecedented new influx of young Central Americans who had arrived illegally as part of the surge, either as UACs or as part of family units. The problem was not just the numbers, but also that typically many of the new arrivals had only a few years of schooling in their home country, had not learned to read nor acquired other basic skills fundamental to education beyond elementary school, spoke indigenous languages (not Spanish), and were more likely to require individualized educational plans and tutoring support due to emotional trauma, learning disabilities, or other special needs. Said a school district representative from Lynn, Massachusetts: “They come to us with an extreme disadvantage. They have a cursory awareness of the alphabet. Some have never held a pencil before.”

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removed. . . . Many individuals from Central America are found to be ineligible for these forms of protections are, in fact, promptly removed.”

<sup>8</sup> David Rogers, “Thousands of child migrants still lack lawyers,” *Politico*, <http://www.politico.com/story/2014/11/child-migrants-lawyers-112654.html>.

<sup>9</sup> Fiscal Year 2014 ICE Enforcement and Removal Operations Report, <http://documents.latimes.com/immigration-and-customs-draft-report/>.

<sup>10</sup> Hearing: “An Administration-Made Disaster: The South Texas Border Surge of Unaccompanied Alien Minors,” June 25, 2014, <http://judiciary.house.gov/index.cfm/hearings?ID=8B6D7AE6-1B16-4A12-BA74-35952F0FCB97>.

Many of these communities are already very experienced in dealing with immigrant children; however, one Massachusetts school committee chair told me that the UAC arrivals were a “shock to the system” because there were so many who came at once, and because most were older than the typical new immigrant children, who are more likely to enter elementary or middle school, not high school. The ICE intelligence report cited above states that 47 percent of the UAC arrivals in FY2014 were males aged 15 to 17 (or claimed to be).

Massachusetts has had to assemble a state-wide working group of educators to design a new curriculum, known as the Students With Limited or Interrupted Formal Education (SLIFE) program, especially for the UAC arrivals, who numbered 1,400 in 2014. Some districts have had to create unique “newcomers” educational programs. However, the districts must be careful not to run afoul of federal oversight on “mainstreaming” special needs children. The city of Lynn, Massachusetts was threatened with litigation by the U.S. Department of Justice when it attempted to launch a night school program designed to better meet the needs and interests of the large percentage of male UAC arrivals who wanted to drop out and work rather than attend a traditional day school program.

Everyone agrees that these students need support to succeed, and no one begrudges them that support if they are legitimately authorized to stay. The problem is how to pay for it, and how to anticipate the flows so that plans can be made. Says Lynn, Mass. Mayor Judy Kennedy: “We have gotten enough new students to build a school, but unfortunately we don’t have the money to build a school.” In the 2013-14 school year, Lynn received about 250 new students from Guatemala and Honduras. Of these, 129 were assigned to the 9<sup>th</sup> grade. The numbers have been growing steadily for the last several years; in 2012-13, there were 86 new enrollees from those countries (with 56 placed in the 9<sup>th</sup> grade); in 2011-12, there were 29 new Central American enrollees; and in 2010-11 there were three.<sup>11</sup>

Last year, as a result of the influx, the city of Lynn’s required contribution to the education budget went up by nine percent, meaning the city had to find an additional \$8 million (with no corresponding increase in tax revenue to cover it). As a result, the city had to cut other agency budgets by two percent across the board. City staff salaries were frozen; the community policing program was ended; an order for a new hook-and-ladder fire truck was cancelled, among other belt-tightening measures.

This story has been repeated all over the country. Louisiana’s Jefferson Parish, which received 533 UACs, said it needed to hire 27 new ESL teachers, 20 new ESL para-educators, 19 regular teachers, and three special education teachers to accommodate the influx. The total cost was estimated to be \$4.6 million, split between the state and the parish. The state was not expecting any additional support from the federal government for the Limited English Proficiency students, because most of them arrived at the last minute.<sup>12</sup>

Other states report the following outlays per UAC student:

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<sup>11</sup> School admissions data provided by the Lynn School Department.

<sup>12</sup> Letter from John White, Louisiana Superintendent of Education to Sen. David Vitter, September 12, 2014, <http://freebeacon.com/wp-content/uploads/2014/09/Sen.-David-Vitter-Response-ltr-9-12-14.pdf>.

- Texas -- \$9,500 (source: Texas Legislative Budget Board)
- Florida -- \$8,900 per child + \$1,900 per UAC for special needs (source: Florida Department of Education) for a total cost of \$30-40 million per year.
- Fairfax County, Virginia -- \$14,755 per English Language Learner, for a total estimated cost per year for UACs of \$14 million. (source: Fairfax County Supervisor).
- National Average: \$11,153 to 12,608 (source: National Center on Educational Statistics).
- Total Cost Nationwide: \$580 million to \$670 million for the FY2014 UAC cohort per year (not counting children who arrived as part of family units).

**Health Care Costs.** Less has been reported on the health care costs for UACs, but inevitably they will present a major burden for state and local governments. “I think the biggest issue for us is the big handoff to local governments in terms of service costs and wraparound for these families and children. There’s no getting around that,” said Uma Ahluwalia, director of the Montgomery County, Maryland, Department of Health and Human Services. “In the meantime, the children are going to be attending local schools, they’re going to have health and mental health needs . . . I think it will definitely strain our capacities.”<sup>13</sup>

The Washington, DC-based Mary’s Center, which provides health services to DC-area immigrants, reported costs of \$400,000 for services for UACs in 2014. The services to UACs cost more than double what routine services cost for most immigrants, because many of the newly arrived Central American youths had been injured or sexually molested on the journey.<sup>14</sup>

One big ticket item in Lynn, Mass. was the cost of immunizations for the UAC arrivals, which had to be done before the kids could be admitted to school. In Massachusetts, there is a delay of one or two months before the students can be enrolled in the state health insurance program for the needy, so the city had to set up special clinics and hire extra nurses on its own dime in order to get the kids into school promptly. (Of course taxpayers pay for the students’ health care, regardless of whether the local or the state agency is covering the costs.)

Mental health care for these individuals may be a long-term challenge. According to numerous studies, UACs are more likely to need counseling and other forms of care as a result of physical or emotional trauma suffered in their home countries, on the journey with smugglers, or after arrival in the United States. According to one report:

Unaccompanied alien children's migration likely compounds significant levels of preflight trauma. The 2000-plus-mile journey to the United States traces routes controlled by drug cartels who beat, drown, drug, maim, murder, rob, molest, and starve undocumented migrants, with some UAC targeted for forced recruitment. Likewise, *coyotes* (guides [actually smugglers]) may offer UAC drugs or alcohol to stem their hunger or proposition them for hard labor or sex in

<sup>13</sup> Quoted in the International City/County Management Association newsletter, August 15, 2014: [http://icma.org/en/Article/104850/Preparing\\_for\\_Costs\\_of\\_Unaccompanied\\_Children\\_Influx?pub=108&issue=8.19.2014](http://icma.org/en/Article/104850/Preparing_for_Costs_of_Unaccompanied_Children_Influx?pub=108&issue=8.19.2014).

<sup>14</sup> Tina Reed, “This is what it’s costing one DC health center to treat “influx of ‘unaccompanied minors’ from Central America,” *Washington Business Journal*, August 15, 2014: <http://www.bizjournals.com/washington/blog/2014/08/this-is-how-much-it-s-costing-one-d-c-health.html>.

return for survival. Combined, the high level of potential trauma before and during migration may lead to some of the highest levels of mental illness among children in the United States.<sup>15</sup>

Typically this care will need to be provided through publicly-funded state, local or federal social service programs for children rather than private insurance, since most of the family members who are assuming custody of the youths are also in the country illegally and thus more likely to lack insurance (and are not required to carry it under federal rules).

**Fraud.** It has become apparent through media reports and through my own discussions with local officials that the federal agencies responsible for processing UACs are not screening individuals sufficiently to determine that they are truly minors. In addition, concerns have been raised about the identity of the sponsors who are given custody of these minors (and those who claim to be minors).

The federal agencies have no way to authenticate the identity of children they apprehend. When the UACs are turned over to ORR custody, the service agencies running the processing centers generally accept whatever identity information is offered by the UAC, and prepare paperwork in that identity, which the receiving jurisdictions must then accept without further questions. Neither federal nor local officials are permitted to probe or verify what sponsors tell them about their identity, immigration status or relationships. This arrangement inevitably leads to fraud, and could also lead to abusive or exploitative situations.

A number of cases have surfaced in Massachusetts that have strong indicators of fraud. In each case I reviewed, the suspicious UACs claimed to be just a month or two shy of 18 years old, or just barely within the age to qualify for ORR protection and resettlement. In some cases I reviewed, the individual who claimed to be a UAC appeared in the photograph to be far older than age 17 or 18. In some cases, the sponsor appears to be younger than the individual claiming to be an unaccompanied minor. I am told that there has been at least one confirmed case in Massachusetts where a male youth was registered with the school system as a UAC, and then later tried to pass himself off as the sponsor for an older man claiming to be an unaccompanied minor, but who was ultimately confirmed to be the first youth's father. Truant officers in Lynn who attempted a home visit for another individual who had claimed to be a UAC were told by a neighbor that this individual was actually about 35 years old.<sup>16</sup>

**Public Safety Implications.** If the screening by federal officials who process these cases cannot detect those falsely claiming to be minors, it is unlikely that those who are criminals or who are a threat to public safety will be detected either.

City officials in Lynn told me of one UAC arrival whose paperwork from ORR included a warrant for his arrest. The school officials turned the youth over to city police, who promptly notified ICE, but ICE did not follow up or seek custody of the youth. Inevitably, word gets out that federal

<sup>15</sup> Elizabeth G. Kennedy, "Unnecessary Suffering: Potential Unmet Mental Health Needs of Unaccompanied Alien Children," *JAMA Pediatrics*, April 2013: <http://archpedi.jamanetwork.com/article.aspx?articleid=1569275>.

<sup>16</sup> See remarks of Mayor Judy Kennedy, "Local Impact of Illegal Border Surge," Center for Immigration Studies panel discussion, August 27, 2014: <http://cis.org/PanelTranscripts/Event-Local-Impact-Illegal-Border-Surge>.



officials will take no action against those who fraudulently take advantage of lax policies, which will provide even greater incentive for others to make bogus claims to gain entry to the United States.

A previous surge of illegal arrivals from Central America in the late 1990s, during a time of similar turmoil and violence there, and also coinciding with an era characterized by minimal immigration enforcement and little attention to suppressing gang activity, had one significant unintended consequence – a dramatic rise in violent criminal street gang activity here in the United States. The gangs that evolved, including MS-13 and 18<sup>th</sup> Street, both of which were made up largely of illegal aliens from Central America, were extremely vicious and unusually degenerate. ICE gang arrest records indicate that the most violent gang members arrested are disproportionately members of the Central American-dominated gangs. These gangs spread across the nation before federal and local law enforcement agencies realized the extent of the threat, and now are well established and even more organized and more dangerous than before.<sup>17</sup>

While ICE once was making great strides in dismantling and disrupting transnational gang activity in the United States, in recent years the agency has made this less of a priority. ICE has de-emphasized working with local law enforcement agencies, such as by pro-actively taking illegal alien gang members off the street and removing them. A few successful ICE-local partnerships remain, but ICE leadership has shifted much of the focus and resources to overseas operations and complex racketeering cases, at the expense of local initiatives.

The result has been that ICE gang arrests have declined by 25 percent from the levels of just a few years ago. Investigators tell me that this is not because there are fewer illegal alien gang members to arrest, but because of changes in ICE policies that severely restrict which illegal aliens may be targeted for arrest and the requirement that illegal aliens be convicted of a serious crime before they may be arrested and detained. In addition, some gang members now have quasi-lawful status such as deferred action or as an unaccompanied minor. Many previously-deported gang members have attempted to return; some have been caught, but surely others have made it back into the United States, especially considering the chaos that has characterized border enforcement over the last year. With the administration's announcement that prior deportations are now essentially nullified, that the successful Secure Communities program has been discontinued, and that agents will no longer issue detainers but instead have to wait for possible notification of a criminal alien's release from local custody, there is much less chance that illegal alien gang members and other criminals will be removed from our communities.<sup>18</sup>

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<sup>17</sup> See Jessica M. Vaughan and Jon D. Feere, *Taking Back the Streets*, Center for Immigration Studies, September, 2008: <http://cis.org/ImmigrantGangs>.

<sup>18</sup> A recent Massachusetts case illustrates ICE's current hands-off, wait-and-see approach to gang members, even those accused of violent crimes. Hector Ramires, a 21-year old from Honduras was arrested in April, 2014 for an armed robbery in Chelsea, Mass., and was identified by the victim as a member of MS-13. Information in the police report indicates that Ramires is an illegal alien, although ICE has refused to respond to repeated inquiries about Ramires' immigration history. Chelsea police later located Ramires at a hospital, where he was being treated for knife injuries sustained in a brawl (unrelated to the armed robbery). Police subsequently determined that he was responsible for another previous armed robbery, in which the young victim, who recognized him from the local high school, had been reluctant to come forward because he knew of Ramires' gang affiliation and feared for his safety. In the absence of an ICE detainer, Ramires was released on bail (he would not have been considered a deportation priority for ICE because he had not yet been convicted). He failed to appear for his initial hearing for the seven felony armed robbery charges. In October, Ramires was involved in another street brawl in Chelsea and fired a gun. The bullet went through a nearby apartment window and killed Katerin

Law enforcement agencies in the affected communities need to prepare a swift and stern response to any new criminal street gang activity that may occur in the wake of the influx of illegal arrivals of youths from gang-afflicted locations in Central America. Immigration enforcement is an invaluable and effective tool for this, but local agencies will need to push harder on ICE leadership and ICE field offices if they hope to receive that support.

**Released UACs Shield Family Members From Deportation.** Under current DHS policies, those illegal aliens who have a family member with some kind of lawful or quasi-lawful status – such as a UAC who is “in proceedings” -- are considered off-limits for enforcement, even if they may have criminal infractions or multiple prior deportations. This policy, together with the administration’s decision to release all minors (and those who claim to be minors) regardless of whether they truly meet the legal standards for special due process protections as UACs, creates a huge incentive for Central American illegal aliens who have children in their home countries to pay smugglers to bring them to the United States.

The case of Moises Herrera, an illegal alien from El Salvador, illustrates how this plays out. Herrera crossed illegally in 2005 and was caught by the Border Patrol and released pending an immigration court hearing. He failed to appear at his hearing because he feared deportation and settled in Everett, Massachusetts, working as a house painter and in a bakery. Herrera left behind a stepson and two daughters and eventually married again here. He was jailed and deported after a traffic stop in 2011 (driving without a license is a criminal offense in Mass.), returned illegally, and was arrested again in October 2014 for running a stoplight, unlicensed driving, and providing a false identity to police. These charges were dismissed, but he was arrested by ICE. ICE apparently declined to prosecute him for the felony charge of illegal re-entry after deportation, but was pursuing deportation since he is an egregious immigration violator. But Herrera was released and has received a one-year stay of deportation, in part because his 17-year-old daughter arrived illegally over the summer as part of the surge of UACs. As mentioned above, sponsors of UACs are allowed to remain in the United States, supposedly to ensure that the UAC will comply with deportation proceedings. Herrera also has a new-born U.S. citizen child, which may enable him to qualify for the recently announced executive deferred action amnesty.

There can be no question that the President’s plan to allow millions of illegal aliens to receive work permits and to allow millions more to be exempt from enforcement will inspire more illegal immigration to American communities already burdened from prior influxes.

**Conclusion.** The bills we are discussing today will force the federal government to consider how its policies on UACs affect American communities. More importantly, these bills will give state and local governments a voice and a mechanism to potentially refuse to participate in resettlement programs that would burden their residents and their budgets.

The provisions appear to apply mainly in situations where the government wishes to contract with an organization to shelter groups of UAC arrivals, which now represent a small share of the illegal

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Gomez, age 35, and mother of three children aged two, four and thirteen. Now Ramirez is being held without bail and ICE has at last issued a detainer, indicating it will move to deport him if he is ever released from incarceration.



aliens who are released from federal custody overall. I would respectfully suggest that Congress also consider extending these proposed notification, consultation and right-of-refusal provisions to situations in which the government is releasing significant numbers of UACs to family members in a particular state or locality; when it is resettling refugees; and when it is releasing immigration detainees, especially those with criminal histories.

Most importantly, the most effective way to alleviate the strain on communities caused by the influx of UACs is for Congress to clarify that only those juveniles who are victims of exploitative human trafficking and who are without family members in the United States should receive special due process protections. Those illegal alien minors who were smuggled or transported into the United States illegally in order to be reunited with illegally-resident family members, and who lack a legitimate claim for relief, should be prioritized for deportation along with their family members. In addition, the family members who contracted with criminal smuggling organizations should be held accountable for that criminal offense. Congress should not allow the Obama administration to incentivize illegal immigration and human smuggling by rewarding those who participate – especially when this act involves children. In addition, Congress must take control of DHS appropriations to ensure that no federal funds – whether collected as taxes or as fees – can be used to grant benefits such as work permits under programs that have not been approved by Congress.

Respectfully submitted by,

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